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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 10/661,357 | 09/12/2003 | Gunter Homes | 22674 | 6768 |

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EXAMINER

LE, MARK T

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3617

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | | |
|------------------------------|-------------------------------|-------------------------------|-----------|
| Office Action Summary | Application No. 10/661,357 | Applicant(s) HOMES, GUNTER | |
| | Examiner Mark T. Le | Art Unit 3617 | <i>MW</i> |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-17 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. ____. |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

1. Claims 3 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 3, it is not clear as to what structure of the present invention constitutes the claimed inner and outer walls. It appears that the claimed inner and outer walls may refer to the inner and outer skins defined in claim 1. Proper correction or clarification is required.

2. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

3. Claims 11 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the enablement requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to enable one skilled in the art to which it pertains, or with which it is most nearly connected, to make and/or use the invention, i.e. the latch means of the present invention that seals with the roof, as recited in claim 11, and the plastic struts the hold the inner and outer skins apart, as recited in claim 16, are not clearly described.

4. Due to the nature of indefiniteness of claim 11, claim 11 cannot be further treated on the merits.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

6. Claims 1-6, 8 and 12-16 (3 and 16 as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Norton (US 6,722,287).

Norton discloses a railroad box car having all the features recited in the instant claims, including inner and outer skins 61, 54, a mass of foam 58, air conditioning means 140,142, and sliding doors on rollers that are supported on upper and lower tracks as shown in Figure 1A.

Regarding claims 12-13, consider roof structure 40 of Norton, which is readable as a roof beam that is cambered as shown in Figures 1B and 5 of Norton.

Regarding claim 14, it is considered that roof structure or beam 40 of Norton inherently has a certain minimal direct or indirect effect in holding, guiding or urging the doors of Norton in closed position.

Regarding the roof beam air flow passages recited in claim 15, consider the space under arched roof 40 of Norton.

Regarding the plastic struts, recited in instant claim 16, consider elements 60 of Norton.

Regarding the instant claimed seals, recited in instant claim 17, it is considered that any structure that interfaces between any adjacent two of the end walls, roof, floor,

and doors of Norton and has any effect in blocking or reducing air flows between said adjacent two components is readable seals as broadly recited in the instant claim.

7. Claims 1-7 and 16-17 (3, 16 as best understood) are rejected under 35 U.S.C. 102(b) as being anticipated by Thoman (US 6,138,580).

Thoman discloses a railroad box car having all the features recited in the instant claims, including inner and outer skins 51,52, a mass of foam 53, air conditioning means 142, and sliding doors on rollers that are supported on upper and lower tracks as shown in Figure 1A.

Regarding claim 16, consider plastic members 158 shown in Figures 6-7 of Thoman.

Regarding the instant claimed seals recited in claim 17, note that the interface components or surfaces between two adjacent ones of the end walls, roof, floor and doors are readable as seals to form a thermal barrier between the car interior and exterior.

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

9. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norton (US 6,722,287) in view of Cummings (US 4,683,678).

Norton is applied above.

Regarding the inwardly angled extension, consider the door of Cumming as shown in Figure 6, which includes angled extension 97 associated with guide rail 92. In view of Norton, it would have been obvious to one skilled in the art to substitute a door arrangement, similar to that shown in Figure 6 by Cummings, for the door arrangement of Norton so as to achieve expected advantages thereof.

10. Claim 10 is rejected under 35 U.S.C. 103(a) as being unpatentable over Norton (US 6,722,287) in view of MacDonald (US 4,438,595).

Norton is applied above.

Regarding the instant latch means, recited in instant claim 10, consider latch means 131,143 of MacDonald. In view of MacDonald, it would have been obvious to one skilled in the art to provide latch means, similar to that taught by MacDonald, on the door arrangement of Norton for arresting the door relative to the roof and floor.

11. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Applicant should further consider the structures of Degelman, Kramer, Schneider, Fecko, Ryan.

12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark T. Le whose telephone number is 703-308-3663. The examiner can normally be reached on Mon-Fri (8:00-5:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Samuel Morano can be reached on 703-308-0230. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3617

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Mark T. Le
Primary Examiner
Art Unit 3617

mle
7/19/04